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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/369,649 03/06/99 FILEPP

LM02/0128

PAUL C SCIFO
10 LEE COURT
FRANKLIN SQUARE NY 11010

EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED 2757

01/28/00

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 08/66/99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-36 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-36 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

Art Unit: 2757

1. Claims 1-36 are presenting for examination.
2. Claim 26-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. As to claim 26, it is unclear whether the claims includes only two steps a & b (notice there is no ending period at the end of line 10 and there is no and word at the end of line 7).

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 5,758,072. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the patent 072 teaches substantially the limitations of the pending claims 1-36..

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2757

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Moustafa M. Meky whose telephone number is (703) 305-9697. The examiner can normally be reached on week days from 7:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess , can be reached on (703) 305-4792 . The fax phone number for this Group is (703) 308-9051 .

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 305-305-7201 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA .
Sixth Floor (Receptionist).

M.M.M

January 26, 2000


MOUSTAF A M. MEKY
PRIMARY EXAMINER

FORM PTO-892
(REV. 2-92)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

SERIAL NO.

09/369,649

GROUP UNIT

2757
2154

ATTACHMENT
TO
PAPER
NUMBER

2

NOTICE OF REFERENCES CITED

APPLICANT(S)

FILEPP et al.

U.S. PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE IF APPROPRIATE
A		5758072	5/98	Filepp et al.	709	220	7/88
B		4805119	2/89	Maeda et al.	345	357	6/86
C		4865134	2/89	Cabo et al.	707	10	1/86
D		5239662	8/93	Danielson et al.	709	246	9/86
E							
F							
G							
H							
I							
J							
K							

FOREIGN PATENT DOCUMENTS

*		DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUB-CLASS	PERTINENT SHTS. DWG.	PP. SPEC.
L									
M									
N									
O									
P									
Q									

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

R	
S	
T	
U	

EXAMINER

M. Nemy

DATE

1/26/2000

* A copy of this reference is not being furnished with this office action.
(See Manual of Patent Examining Procedure, section 707.05 (a).)

369 649

NOTICE OF DRAFTSPERSON'S
PATENT DRAWING REVIEWThe drawing(s) filed (insert date) 8/6/99 are:A. ☒ approved by the Draftsperson under 37 CFR 1.84 or 1.152.B. ☐ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawing must be submitted according to the instructions on the back of this notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings:

Black ink. Color.

Color drawings are not acceptable until petition is granted.

Fig(s) _____

Pencil and non black ink not permitted. Fig(s) _____

2. PHOTOGRAPHS. 37 CFR 1.84 (b)

1 full-tone set is required. Fig(s) _____

Photographs not properly mounted (must use bristol board or

photographic double-weight paper). Fig(s) _____

Poor quality (half-tone). Fig(s) _____

3. TYPE OF PAPER. 37 CFR 1.84(e)

Paper not flexible, strong, white, and durable.

Fig(s) _____

Erasures, alterations, overwritings, interlineations,

folds, copy machine marks not accepted. Fig(s) _____

Mylar, velum paper is not acceptable (too thin).

Fig(s) _____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.0 cm by 29.7 cm (DIN size A4)

21.6 cm by 27.9 cm (8 1/2 x 11 inches)

All drawing sheets not the same size.

Sheet(s) _____

Drawings sheets not an acceptable size. Fig(s) _____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

SIZE: A4 Size

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm.

SIZE: 8 1/2 x 11.

Margins not acceptable. Fig(s) _____

Top (T) _____

Left (L) _____

Right (R) _____

Bottom (B) _____

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes.

Partial views. 37 CFR 1.84(h)(2)

Brackets needed to show figure as one entity.

Fig(s) _____

Views not labeled separately or properly.

Fig(s) _____

Enlarged view not labeled separately or properly.

Fig(s) _____

7. SECTIONAL VIEWS. 37 CFR 1.84 (h)(3)

Hatching not indicated for sectional portions of an object.

Fig(s) _____

Sectional designation should be noted with Arabic or

Roman numbers. Fig(s) _____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s) _____

9. SCALE. 37 CFR 1.84(k)

Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction.

Fig(s) _____

10. CHARACTER OF LINES, NUMBERS, & LETTERS.

37 CFR 1.84(i)

Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality).

Fig(s) _____

11. SHADING. 37 CFR 1.84(m)

Solid black areas pale. Fig(s) _____

Solid black shading not permitted. Fig(s) _____

Shade lines, pale, rough and blurred. Fig(s) _____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS.

37 CFR 1.84(p)

Numbers and reference characters not plain and legible.

Fig(s) _____

Figure legends are poor. Fig(s) _____

Numbers and reference characters not oriented in the

same direction as the view. 37 CFR 1.84(p)(1).

Fig(s) _____

English alphabet not used. 37 CFR 1.84(p)(2)

Figs _____

Numbers, letters and reference characters must be at least

32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3)

Fig(s) _____

13. LEAD LINES. 37 CFR 1.84(q)

Lead lines cross each other. Fig(s) _____

Lead lines missing. Fig(s) _____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(i)

Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Sheet(s) _____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) _____

16. CORRECTIONS. 37 CFR 1.84(w)

Corrections not made from prior PTO-948 dated _____

17. DESIGN DRAWINGS. 37 CFR 1.152

Surface shading shown not appropriate. Fig(s) _____

Solid black shading not used for color contrast.

Fig(s) _____

COMMENTS

REVIEWER _____

DATE

9/21/99

TELEPHONE NO. _____

ATTACHMENT TO PAPER NO. _____

2

=> d his

(FILE 'HOME' ENTERED AT 14:49:33 ON 26 JAN 2000)

FILE 'USPATFULL' ENTERED AT 14:49:44 ON 26 JAN 2000

L1 15787 S (PROGRAM# OR APPLICATION#) (5A)OBJECT#
L2 1816 S L1(P)DISPLAY###
L3 481 S L2(P)WINDOW#
L4 35 S L3(P) (SERVER# OR HOST)
L5 33 S 10 AI
L6 0 S 5758072/PN
L7 0 S 5758072 '/PN'
E FILEPP/IN
L8 5 S E5
L9 1137 S INTERACTIVE(1W) (SERVICE# OR APPLICATION#)
L10 8922 S (APPLICATION# OR SERVICE#) (3A)OBJECT#
L11 24 S L9(P)L10
L12 126 S L9(P)OBJECT#
L13 169424 S (APPLICATION# OR SERVICE#) (4A)PRESENT#####
L14 19 S L12(P)L13

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COST IN U.S. DOLLARS

SINCE FILE

TOTAL

ENTRY

SESSION

FULL ESTIMATED COST

162.26

162.47

STN INTERNATIONAL LOGOFF AT 16:22:31 ON 26 JAN 2000